

December 5, 2002

Luly E. Massaro
Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Re: Docket 3445, Conversent Communications of Rhode Island, LLC's Objection to Exclusion from Post Hearing Settlement Negotiations and Letter Motion For Extension of Schedule

Dear Ms. Massaro:

Conversent Communications of Rhode Island, LLC ("Conversent") submits this letter to object to its exclusion from post hearing settlement negotiations conducted by the Division and Verizon and to request a 30 day extension of the recent procedural schedule.

The vital importance of this docket for the telecommunications marketplace in Rhode Island cannot be understated. Under consideration is a proposed Alternative Regulation Plan for Verizon that would grant it unprecedented pricing flexibility. This docket addresses many complex issues and concerns and has been under development for 5 months.

Conversent has actively participated in the proceeding by taking discovery, filing pre-filed testimony and sponsoring expert witness testimony at the multi-day evidentiary hearings. Conversent has taken the opportunity and expended considerable time and resources to explain to the Commission the impact that Verizon's proposed Alternative Regulation Plan could have on facilities-based carriers like Conversent, ChoiceOne and other carriers that are dependent on UNEs from Verizon in order to compete.

On December 3, 2002, Conversent participated in a procedural conference call scheduled to determine the timing of post-hearing briefs. For the very first time, Conversent was advised of a "Global Settlement" between the Division and Verizon. At the hearings, Conversent expressly requested that they be allowed to participate in any settlement discussions and the Commission appeared to concur.

Conversent objects to the fact that it was completely excluded from settlement discussions between Verizon and the Division. During the hearings, Conversent raised several legitimate

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concerns about Verizon's Alternative Regulation Plan, including but not limited to the need for a UNE based price floor and a cap on the hot-cut NRC as conditions to any Alternative Regulation Plan. Conversent also demonstrated that such safeguards have been supported in other jurisdictions in order to protect facilities-based carriers from a price squeeze. Given the time and attention that was paid by the Commission and the parties on the issues of (i) Verizon's ability and incentive to implement a price squeeze, and (ii) whether a price floor should be based on the TELRIC prices for the elements that make up the retail service or whether it should be based on a LRIC standard, it is rather striking that the positions of facilities-based competitors were not afforded any say in the settlement discussion.

In addition, and with absolutely no disrespect whatsoever to the Commission's General Counsel, Conversent objects to the fast-track procedural schedule that has been adopted to consider a non-unanimous, post-hearing settlement agreement that Conversent received only today. The procedural schedule is unfair and most importantly does not allow the parties or the Commission adequate time to duly consider the myriad of important issues that have been raised.

As Conversent understands it, the current procedural schedule is as follows:

- Friday 12/6/02 - Settlement between Verizon and Division filed with the Commission;
- Wednesday 12/11/02 - Hearing for presentation by settling parties of settlement;
- Monday 12/18/02 - Briefs due on both original proposal and settlement;
- Wednesday 12/20/02 - Commission decision at open meeting. Verizon/Division settlement filed with the Commission

As a result of preexisting commitments, Conversent's expert witness will not be available on December 11, 2002 to provide the Commission with the benefit of his analysis of any proposed settlements. Moreover, Conversent's ability to adequately analyze and respond to the existing record as well as the Verizon/Division settlement is compromised. First, the transcripts from the evidentiary hearings will not be available until (at the earliest) approximately December 10th or December 11th. This gives the parties four workdays to brief a proceeding which has taken months to prepare and includes several hundred pages of transcripts. Not only must the issues raised in the evidentiary hearings be addressed, new issues arising out of the settlement discussions must be taken into account. Conversent suggests that four workdays is a grossly inadequate time for any meaningful analysis in the briefs.

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In addition, the proposed schedule leaves the Commission only two days to review the record in this proceeding and whatever briefs the parties are able to put together. Meaningful exploration of an entirely new regulatory scheme to be applied to the dominant provider in the state (and the impact on nascent competition) under such tight timeframes is, to say the least, daunting.

The schedule apparently is being driven by Verizon's claim that the current price regulation plan and Verizon's commitment for funding internet access to schools and libraries will expire on December 31, 2002. The Commission's decision making process should not be rushed or driven by this claim. The Commission must ensure that it has adequate time to analyze and understand the record before being making far ranging and long term determinations based upon it.

Turning first to the schools and libraries funding, Verizon has threatened to immediately terminate its funding of schools and libraries if the Commission does not accept its Alternative Regulation Plan. It is abundantly clear to all participants, including Conversent, that continued funding for access to the internet for schools and libraries is of great value. Moreover, not a single party has opposed the value of the program. The Commission's foresight in seeking a commitment by Verizon as part of its prior regulatory bargain resulted in a huge success. However, Verizon should not be allowed to leverage that success to limit the Commission's ability to carefully consider the appropriate regulatory scheme for Verizon.

A competitively neutral alternative funding scheme is necessary and appropriate regardless of whether the Alternative Regulation Plan is rejected or accepted. Conversent believes that the PUC or the General Assembly could and should create a State Universal Service Fund ("USF") to subsidize internet access to schools and libraries. Conversent further believes (i) it should be funded by all carriers on a competitively neutral basis, such as by the number of local exchange access lines (or equivalents) or by each carriers intrastate telecommunications revenue, and (ii) that the schools and libraries should have the ability to choose which vendor they want to use for the services that they need.

Given the unprecedented regulatory flexibility sought by Verizon, it is not out of bounds for the Commission to request that Verizon voluntarily continue funding the program for an additional 30 days while the Commission deliberates on Verizon's proposed Alternative Regulation Plan or the settlement.

The next factor apparently behind the fast track is the uncertainty surrounding the regulatory scheme that would apply after December 31, 2002. This is not a new issue. Every time an alternative regulatory scheme expires, the issue of how the ILEC should be regulated in the future is raised. However, the fact that the current plan expires on December 31, 2002 should not deter the Commission from taking the time it needs to carefully consider the record.

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Moreover, as a practical matter, regardless of whether the term of the existing price regulation plan expires, this Commission, not Verizon, is the party responsible for determining the manner by which it will regulate Verizon. If the Commission wishes to continue regulating Verizon under a price cap form of regulation it may do so. Finally, Verizon has no authority to unilaterally raise its rates even if the existing price regulation plan expires.

In closing, Conversent urges that the Commission not be pressured into a quick decision. Rather, Conversent respectfully requests that the proposed procedural schedule be amended to allow for an additional 30 days of careful deliberation necessary for the Commission to make an informed judgment based upon a complete and informed record.

Sincerely,

/s/

Scott Sawyer
Vice President-Regulatory Affairs

SS/pf

CC: Service List